

### REMARKS

The Office Action of August 3, 2009 has been received and carefully reviewed. It is submitted that, by this Amendment, all bases of rejection are traversed and overcome. Upon entry of this Amendment, claims 1-5, 8-15, and 18-26 remain in the application. Claims 1, 2, 4, 11, 21, and 25 have been withdrawn. New claim 27 has been added in order to set forth additional specific embodiment of the Applicants' disclosure. Support for new claim 27 may be found throughout the application as filed, at least at page 20, lines 15-21. Reconsideration of the claims is respectfully requested.

Status of the claims: Claims 12-15 and 18-20 stand rejected under 35 U.S.C. § 112, first paragraph; claims 22-24 stand rejected under 35 U.S.C. § 101; claims 3, 5, 13-15, and 18 stand rejected under 35 U.S.C. § 102(e); claims 8-10, 12-15, 18-20, and 22-24 stand rejected under 35 U.S.C. § 103(a); and claim 26 is allowed.

At the outset, the Applicants note and appreciate that claim 26 has been allowed. In view of such indication, the Applicants assume that the withdrawn status of claim 26 (as set forth in at least the Restriction Requirement of March 17, 2009) has been withdrawn. If this assumption is in error, the Applicants request clarification as to the status of claim 26.

In the instant Office Action, the Examiner states that for a proper format, the Applicants should indicate a current status of each pending claim "in a submitted claim listing of 3/17/2009". The Applicants have provided a complete claim listing in the instant amendment, and submit the following regarding the Examiner's comment.

37 C.F.R. § 1.121(c) states, in part, "[e]ach amendment document *that includes a change to an existing claim*, cancellation of an existing claim or addition of a new claim, *must include a complete listing of all claims* ever presented, including the text of all pending and withdrawn claims, in the application." (emphasis added). The Applicants' response filed April 17, 2009 did not change any of the claims, and thus a complete listing of the claims was not presented. Furthermore, the Frequently Asked Questions portion of the USPTO website states that "[a]lthough a complete claim listing is only required whenever changes are made to

any claims, one may *be submitted* in a reply to an Office action where no changes are being made.” (emphasis added, Answer Posted August 14, 2003, see <http://www.uspto.gov/main/faq/p250038.htm>). If the Examiner is aware of a requirement to include a complete listing of the claims when no changes are made to the claims, the Applicants respectfully request the Examiner to point out where in the Patent Rules such a requirement is set forth. Otherwise, the Applicants submit that the response filed April 17, 2009 was in proper form since no claim amendments were made.

Claims 12-15 and 18-20 stand rejected under 35 U.S.C. § 112, first paragraph, because, according to the Examiner, the specification (while being enabling for providing vehicle setting for a telematics unit in a mobile vehicle) does not reasonably provide enablement for a computer-readable medium with the claimed computer readable codes. The Examiner specifically questions why no software codes are provided in the application as filed.

While the Applicants do not acquiesce to the Examiner’s rejection, claims 12-15 and 18-20 have been amended herein to recite, “A computer readable medium for providing vehicle personalization settings for a telematics unit in a mobile vehicle, the computer readable medium comprising a program having computer readable code embodied therein, the code being configured for:....” Support for this recitation may be found at least at page 18, lines 23-30 of the application as filed. Applicants submit that the specification as filed enables a method for providing vehicle setting for a telematics unit in a mobile vehicle, and also enables the computer readable medium configured to perform such method steps. Applicant submit that the instant 35 U.S.C. § 112, first paragraph, rejection is erroneously based or has been traversed and overcome, and withdrawal of the same is respectfully requested.

Claims 22-24 stand rejected under 35 U.S.C. § 101 because, according to the Examiner, the claimed invention is directed to non-statutory subject matter (i.e., “software per se”) even though the claims recite system claims.

While the Applicants do not acquiesce to the Examiner's rejection, claims 22-24 have been amended herein to recite particular system components. Support for these recitations may be found throughout the application as filed, at least from pages 13 through 19, page 20, lines 1-21, and page 21, lines 1-10. In light of such revisions, the Applicants submit that the instant rejection of claims 22-24 under 35 U.S.C. § 101 is rendered moot.

Claims 3 and 13 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Matula et al. (U.S. Patent App. Pub. No. 2003/0181162, referred to herein as "Matula"). The Examiner states that Matula inherently or explicitly teaches each of the steps of the Applicants' claims. The Examiner points to Fig. 1 of Matula in support of this conclusion. The Examiner interprets the "flag signal" of the Applicants' claims as being equivalent to a "familiar act of 'shaking hands'" between two remote components before communications are commenced.

The Applicants disagree with the Examiner's interpretation of the "flag signal" and have amended claims 3 and 13 herein to clarify the "flag signal". In particular, claim 3 has been amended herein to recite, in part, "sending an update flag signal from a call center to a telematics unit, the update flag signal indicating that a vehicle setting update is available for download." Claim 3 has also been amended to clarify that the vehicle setting corresponds to the vehicle setting update and that the vehicle settings are vehicle personalization settings. Still further, claim 3 has also been amended to improve the readability of the claim. Claim 13 has been amended similarly to claim 3. Support for the revisions to claims 3 and 13 may be found at least at page 17, line 1-9 and page 22, lines 9-13.

The Applicants' flag signal is a communication sent from the call center to the telematics unit indicating to the telematics unit that a vehicle personalization setting update is available for download. As such, this communication is not simply the "shaking hands" of two remote components as suggested the Examiner.

Matula is related to a mobile satellite set-top box for a mobile unit, which enables internet services, television services, and navigation services to the mobile unit (see Abstract).

Matula does not at all teach or suggest vehicle personalization settings (i.e., seat and mirror behavior, door lock/unlock behavior, radio station preset selections, climate control, custom button configurations, theft alarm settings, etc., see page 1, lines 21-24 of Applicants' specification as filed), let alone remotely configuring such settings by transmitting the settings from a call center to the telematics unit. Matula merely teaches how satellites may be used to transmit TV and Internet signals to a vehicle or other mobile device using a satellite dish in connection with a set-top box (see paragraphs [0008] through [0010]). There is no teaching or suggestion of a telematics unit requesting that a vehicle personalization setting be updated (i.e., after the update flag signal is sent, receiving a vehicle personalization settings update signal at a call center from the telematics unit) or that the remote location actually transmits such personalization settings to the vehicle (i.e., sending vehicle personalization settings from the call center to the telematics unit responsive to the update signal, the vehicle personalization settings corresponding to the vehicle personalization settings update). The transmission of TV and Internet signals are not the same as sending personalization settings to the vehicle.

Furthermore, Matula does not teach or suggest the Applicants' flag signal. As mentioned above, the Applicants' flag signal indicates to the telematics unit that an updated vehicle personalization setting is available for download. Since Matula does not teach or suggest the Applicants' personalization settings, it logically follows that he also does not teach or suggest sending an update flag signal that is indicative of an update to such personalization settings. Still further, the Applicants' flag signal is not merely the "hand shake" between remote components for initiating communications as suggested by the Examiner. Rather, as stated previously, the flag signal "notifies the client of the waiting vehicle setting update" (see page 17, lines 6-7 of the Applicants' specification as filed). This signal is neither taught nor suggested by Matula.

For all these reasons, it is submitted that Matula does not teach or suggest 1) remotely setting vehicle personalization settings and 2) the transmission of an update flag signal, as

such signal is defined by the Applicants. As such, it is submitted that Applicants' invention as defined in independent claims 3 and 13, and in those claims depending ultimately therefrom, is not anticipated, taught or rendered obvious by the Matula, either alone or in combination, and patentably defines over the art of record.

Claims 5, 14, 15, and 18 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Rigo et al. (U.S. Patent App. Pub. No. 2002/0049535, referred to herein as "Rigo"). The Examiner states that Rigo teaches all of the Applicants' recited claim elements.

Rigo relates to providing hands free methods for obtaining information and assistance in a vehicle (see Abstract). In particular, Rigo's system and method enable traveling customers to request, pay for, and/or receive information regarding various services (e.g., hotels, restaurants, etc.). The service providers maintain a connection to a central station, and when a user requests a particular service or requests that data continuously be supplied (see paragraph [0049]), the central station is able to provide up-to-date information to the user via an interactive voice network over the Internet (see paragraphs [0040] and [0041]). Examples of the information that is available include hotel pricing, payment options, restaurant menus, etc. None of the services described by Rigo relate to vehicle personalization settings as defined by the Applicants in independent claims 5, 15 and 18. In fact, Rigo's service providers are commercial or other hospitality service providers (see Col. [0040]), and any user preferences described by Rigo are related to such commercial or other hospitality service providers (see paragraph [0048]).

Furthermore, there is no teaching or suggestion of a telematics unit requesting that a vehicle personalization setting be updated (i.e., then receiving a vehicle personalization settings update signal at the call center from the telematics unit) or that the central station actually transmits such personalization settings to the vehicle (i.e., sending at least one vehicle personalization setting corresponding to the user preference from the call center to the telematics unit responsive to the update signal). The transmission of information (as taught

by Rigo) is not the same as sending personalization settings to the vehicle for implementation therein as set forth in independent claims 5 and 15.

Regarding claims 5 and 15, it is again submitted that the Examiner is misinterpreting the Applicants' flag signal as a "hand shake" between remote components for initiating communications. As set forth above, the Applicants' flag signal "notifies the client of the waiting vehicle setting update" (see page 17, lines 6-7 of the Applicants' specification as filed). This type of signal (or transmission of the same to the telematics unit of the vehicle) is not taught or suggested by Rigo. At most, Rigo teaches that the central station may push information (from commercial subscribers) to the vehicle upon request from the vehicle or continuously (i.e., not in response to a request) (see paragraph [0049]). Pushing information in this manner is not the same as informing the telematics unit that personalization setting updates are available for download. Rigo teaches the actual transmission of service related information, while the Applicants' update flag signal indicates that updated settings are available for download.

Still further, when the user in Rigo updates his/her profile with personal information preferences, the subscribing service provider may also update their profile (see paragraph [0048]). Rigo does not teach or suggest that the user's update triggers the transmission of an update flag signal to the vehicle (as recited in Applicants' claims 5 and 15). In fact, since the user's update is not related to in-vehicle personalization settings, one skilled in the art would not even contemplate sending such an update flag signal to the vehicle. Rather, as Rigo teaches, it would be desirable for the user's preferences to be transmitted to the service provider. For all these reasons, it is submitted that Applicants' invention as defined in independent claims 5 and 15, and in those claims depending ultimately therefrom, is not anticipated, taught or rendered obvious by the Rigo, either alone or in combination, and patentably defines over the art of record.

Further regarding independent claim 18, Rigo fails to teach or suggest transmitting at least one download requirement to the telematics unit, where the download requirement

indicates, to the telematics unit, a component needed in a modifiable state for a successful download of vehicle personalization settings associated with the vehicle personalization settings update signal. The downloading of information as taught by Rigo would not require one or more vehicle components to be in a modifiable state. One or more of the Applicants' in-vehicle components will be adjusted by virtue of the transmitted vehicle personalization settings, and thus prior to such transmission, it is desirable to determine if the particular component(s) is/are in a modifiable state. This step is not taught by Rigo and would not even be contemplated by Rigo since he does not teach or suggest the transmission of vehicle personalization settings. For this reason, in addition to those set forth hereinabove, it is submitted that Applicants' invention as defined in independent claim 18, and in those claims depending ultimately therefrom, is not anticipated, taught or rendered obvious by the Rigo, either alone or in combination, and patentably defines over the art of record.

Claims 8-10, 12-15, 18-20, and 22-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rigo in view of Duperrouzel et al. (U.S. Patent No. 7,149,982, referred to herein as Duperrouzel).

Claims 8 and 22 recite similar recitations to claim 18 regarding the download requirement. As such, Applicants reiterate all of the arguments set forth hereinabove regarding the patentability of claim 18 over Rigo, and submit that for at least these same reasons, independent claims 8, 18, and 22 are also patentable over the combination of Rigo and Duperrouzel. This is due to Duperrouzel failing to supply the outlined deficiencies of Rigo. The Examiner states that Duperrouzel teaches determining a download status. Duperrouzel does teach identifying whether a user terminal is currently in the process of downloading a web page (see Col. 7, lines 1-3). However, this is not the same as determining whether a vehicle component is in a modifiable state. The Applicants' invention as defined in claims 8, 18, and 22 are attempting to determine whether an in-vehicle component is in a state that is suitable for receiving a change in a setting thereof. This is not the same as determining whether a computer terminal is downloading information.

The Examiner further states that Col. 13, line 60 to Col. 14, line 6 illustrates the determining of a modifiable state. These paragraphs relate to the fact that a user may alter a display configuration (i.e., a snapshot) of a website using menu selections. This simply teaches that a user may be presented with options via a menu and may alter the look of a webpage via such options. Since the options are presented to the user, there is no need for any of the systems involved to determine the modifiability of the display configuration. Applicants strongly disagree that these recitations supply the deficiencies of Rigo regarding the download status of the components.

For these reasons, it is submitted that Duperrouzel fails to supply the outlined deficiencies of Rigo, and thus the combination fails to anticipate, teach, suggest, or otherwise render obvious the Applicants' invention as defined in claims 8, 18, and 22, and those claims depending therefrom.

Regarding claims 13 and 15, Applicants submit reiterate the arguments set forth herein above regarding the fact that Rigo fails to teach or suggest the requesting and transmission of vehicle personalization settings, and submit that Duperrouzel fails to supply these deficiencies. Duperrouzel relates to allowing a user to manipulate web-page displays. This has nothing to do with vehicle, let alone the implementation of vehicle personalization settings. For these reasons, it is submitted that Duperrouzel fails to supply the outlined deficiencies of Rigo, and thus the combination fails to anticipate, teach, suggest, or otherwise render obvious the Applicants' invention as defined in claims 13 and 15, and those claims depending therefrom.

It is submitted that the absence of a reply to a specific rejection, issue or comment in the instant Office Action does not signify agreement with or concession of that rejection, issue or comment. Finally, nothing in this amendment should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this amendment, and the amendment of any claim does not signify concession of unpatentability of the claim prior to its amendment. Further, for any instances in which the Examiner took Official Notice in the



Appln. S.N. 10/654,301  
Response dated November 3, 2009  
In reply to Office Action of August 3, 2009  
Docket No. GP-303673-OST-ALS  
Page 20 of 20

Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

In summary, claims 1-5, 8-15 and 18-26 remain in the application, with claims 1, 2, 4, 11, 21, and 25 being withdrawn. It is submitted that, through this Amendment, Applicants' invention as set forth in these claims is now in a condition suitable for allowance.

Further and favorable consideration is requested. If the Examiner believes it would expedite prosecution of the above-identified application, he is invited to contact Applicants' Attorney at the below-listed telephone number.

Respectfully submitted,

DIERKER & ASSOCIATES, P.C.

/Julia Church Dierker/

Julia Church Dierker  
Attorney for Applicants  
Registration No. 33368  
(248) 649-9900, ext. 25  
juliad@troypatent.com

3331 West Big Beaver Rd., Suite 109  
Troy, Michigan 48084-2813  
Dated: November 3, 2009  
JCD/JRK/hmp